

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DURAVEST, INC.,

Plaintiff,

VISCARDI AG, WOLLMUTH, MAHER & DEUTSCH
MASON H. DRAKE, ESQ., BRUCE O'DONNELL CP
BRUCE O'DONNELL CPA/PFS P.A., BIOMEDICAL
CONSULTANT SL, RICHARD MARKOLL and
ERNESTINE BINDER MARKOLL,

Defendants.
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: No. 07 CIV 10590

: Hon. Jed Rakoff, U.S.D.J.

**DECLARATION OF
FRIEDRICH W. GÖBEL**

FRIEDRICH W. GÖBEL hereby states, under penalty of perjury:

1. I am over eighteen years old and am competent to testify to the facts and matters set forth in this declaration. I have reviewed the complaint and Viscardi AG's motion to dismiss the complaint and supporting papers, and Plaintiff's opposition to such motion, and unless otherwise indicated, have personal knowledge of the facts set forth herein. This declaration does not contain all of the facts and circumstances known to me regarding this matter.

2. I am the Chief Executive Officer and founder of Viscardi AG ("Viscardi"). I am responsible for all aspects of Viscardi's business and am fully familiar with matters stated herein. I have reviewed the Declaration of Luis Ras and the Affidavit of Hendrick Hammje submitted in opposition to Viscardi's assertion that this Court lacks personal jurisdiction over Viscardi, and submit this declaration in response thereto.

Viscardi And I Have No Connection with The Schubert Group or 111 Broadway

3. Contrary to the suggestion in the Ras Declaration, Viscardi does no business, and solicits no business, in New York. Neither Viscardi nor I maintain an office in New York or

anywhere else in the United States. In particular, neither Viscardi nor I maintain an office at 111 Broadway as claimed by Mr. Ras, nor have we ever. I have never had telephone number there, and I have never conducted business there.

4. Neither Viscardi nor I have ever been associated in any fashion with The Schubert Group. We have done no business with them, and do not utilize the entity or its web site to solicit business. I am not aware of them having any employees. Its principal Walter Schubert ("Schubert") is a personal friend of mine.

5. I have visited Schubert at his office at 111 Broadway perhaps 1 to 2 times per year in recent years. I have been there on a personal basis only. On the occasions I was there, I have never conducted business, never entertained or met with a client, and have never used their telephone for any business purpose.

The Schubert Group Web Site

6. I never asked or authorized Schubert to use my name, likeness or biographical information, or to use the Viscardi name, logo or a link to the Viscardi web site, on The Schubert Group web site. I learned in recent weeks that – without my authorization and in an inaccurate manner – he used such materials on his web site. I objected immediately to his use of my information and his claiming that I was associated with The Schubert Group, and he removed that material from his web site immediately. I also objected to his use of the Viscardi name, logo and link on the web site and he agreed to remove those items also. Viscardi formalized that objection in a letter to Schubert, a copy of that is attached hereto as Exhibit A.

7. The web site's claim that Viscardi was a "strategic partner" with The Schubert Group was false. No business was ever referred from The Schubert Group to Viscardi or vice versa.

Other Matters

8. I spend only about five to six days per year in New York. Primarily, I visit New York because I have friends and contacts there -- although I was raised and schooled in Europe -- I worked in New York from the late 1980s until 1999 when I returned to Germany to found Viscardi. There is an older member of Viscardi's board who lives in New York whom I meet in New York from time to time when I travel there.

9. As stated above, among those friends I count Walter Schubert. Some years ago I gave Schubert a personal loan to be used as capital in a now inactive broker-dealer he owned called SGI, LLC. Viscardi has never done business with SGI, LLC or had any past connection to it.

10. Although they are not related to Viscardi's business, I have kept my personal U.S. securities registrations current, and since that must be done through a U.S. broker-dealer, I have done so through SGI, LLC. (My registrations date to my prior employment at Hypo Bank and Cowen & Company during the late 1980s and 1990s.) As an accommodation to me to maintain my U.S. registrations by having a U.S. broker-dealer host them, as well as in recognition of the fact that Schubert was unable to repay the initial and subsequent loans I made to him, my loan to SGI, LLC was converted to equity and I now own part of SGI, LLC in my personal name.


11. Viscardi may seek in the future the ability to conduct certain limited aspects of its business in the U.S. (such as showing its research on German companies or conducting road-shows on German companies). To that end, Viscardi has decided to acquire this inactive broker-dealer. We hope to complete this transaction in the near future.

BMTS

12. Finally, I note that in the plaintiff's papers in opposition to our motion to dismiss for lack of personal jurisdiction Duravest asserts that BMTS did business in New York. Upon information and belief, at one time, BMTS did business in Long Island, New York. However, to Viscardi's knowledge, that New York location did not exist at the time Viscardi was engaged by BMTS to seek a buyer for the company in early 2005, or at any time thereafter, and in fact I believe it was shuttered (and the Markolls had moved to Florida leaving no office or operation of BMTS in New York) long before that time.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: May 5, 2008



Friedrich-Wilhelm Göbel

EXHIBIT A



VISCARDI

April 29, 2008

The Schubert Group, LLC
111 Broadway, 12th Floor
New York, New York 10006
Attention: Walter B. Schubert, Jr.

Re: *Unauthorized Use of Viscardi AG Intellectual Property; False and Misleading Statements with Respect to Viscardi AG and Friedrich-Wilhelm Göbel*

Ladies and Gentlemen:

It has come to our attention that The Schubert Group, LLC ("TSG") has, without our knowledge or authorization: (i) posted on TSG's website certain trademarks and other intellectual property owned by Viscardi AG ("Viscardi"); (ii) stated on TSG's website that Viscardi has a "strategic relationship" with TSG; (iii) stated on TSG's website that Friedrich-Wilhelm Göbel, Viscardi's chief executive officer, is a member of TSG's "Team" and is TSG's "Team Leader: Investment Banking"; and (iv) posted on TSG's website certain biographical information relating to Mr. Göbel.

Viscardi's trademarks and logo are valuable intellectual property belonging to Viscardi. Your unauthorized use of that intellectual property is a willful infringement of Viscardi's rights that Viscardi cannot and will not tolerate.

Viscardi does not have and has never had any relationship, strategic or otherwise, with TSG. Viscardi has not entered and does not intend to enter into any contract or other business arrangement, written or oral, with TSG. To represent otherwise is false and misleading, and unacceptable to Viscardi.


Mr. Göbel is not and has never been an employee, officer, manager, member, advisor, or agent (including Team Leader: Investment Banking) of TSG. To represent otherwise is false and misleading, and unacceptable to both Viscardi and Mr. Göbel.

We demand that TSG immediately: (i) remove from TSG's website and cease all use of Viscardi's trademarks and logo and any other Viscardi intellectual property of any kind whatsoever; (ii) remove from TSG's website all statements and other materials that indicate that Viscardi has any business relationship with TSG of any kind whatsoever; (iii) remove from TSG's website all statements and other materials that indicate that Friedrich-Wilhelm Göbel has any business relationship with TSG



of any kind whatsoever; and (iv) remove from TSG's website all biographical information of any kind whatsoever relating to Mr. Göbel.

Very truly yours,


Friedrich Wilhelm Göbel
Chief Executive Officer

cc: Barbara Thätig
Chief Operating Officer and General Counsel
Viscardi AG
Brienner Strasse 1
D-80333 Munich
GERMANY

Daniel Levin
Levin & Srinivasan LLP
1790 Broadway, 10th Floor
New York, New York 10019